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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

13 Cr. 356 (RMB)

5 VAUGHN RICHMOND,

6 Defendant.

7 -----x

Conference

8 July 24, 2018

9 2:20 p.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
Southern District of New York

17 BY: BRETT KALIKOW

SAMSON A. ENZER

18 Assistant United States Attorneys

19 EDWARD SAPONE

20 Attorney for Defendant

21 ALSO PRESENT:

22 LISA FARO, USPO SDNY

23 ANA MARIA GONZALEZ USPO EDNY

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1 THE COURT: So, the first thing that has to happen in  
2 this group, which has not been happening for many months now,  
3 is that you all need to learn better how to get along with each  
4 other -- that's both the front table and the back table --  
5 because this has been an adversary proceeding almost from the  
6 get-go, and that's the real problem here.

7 So anybody want to be heard?

8 MR. KALIKOW: Yes, your Honor. Good afternoon. Brett  
9 Kalikow and Samson Enzer for the United States. I am joined at  
10 the counsel table by Probation Officers Faro and Gonzalez.

11 THE COURT: I don't want to hear about you are even  
12 calling the F.B.I. and CIA to get to the root of all of this  
13 stuff either. I want to hear a more productive discussion than  
14 I have ever heard before from this group as to how we can make  
15 this a successful supervision.

16 MR. KALIKOW: Absolutely, your Honor. I understand  
17 your Honor's point. Obviously I am new to the case, but I will  
18 be on this case --

19 THE COURT: If you are new to the case, then you have  
20 missed this. There have been more adversary relationships here  
21 than I have ever seen, in between particularly the probation  
22 department and the defendant, in any other case.

23 MR. KALIKOW: I understand your Honor's perspective.  
24 I have familiarized myself with the history of this case, and I  
25 do think and I am hopeful that there can be successful

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1 supervision to come in the future.

2 I think that the challenge that we have faced, from  
3 our perspective, is that the efforts that -- the rigorous  
4 efforts that we have taken and that the probation officer has  
5 taken to try to verify what the defendant has stated to them,  
6 stated to this court, has been extremely difficult. And as we  
7 have indicated to your Honor as a result of our investigation,  
8 we do think that the defendant has been, at the very least,  
9 less than forthcoming, if not outrightly misrepresenting the  
10 facts.

11 We are hopeful that the defendant will be --

12 THE COURT: He is not the first person that the U.S.  
13 Probation Department has supervised that's ever been a little  
14 bit difficult, by the way. This isn't the first. We weren't  
15 born yesterday in these matters. So we have had difficult  
16 supervisees long before Mr. Richmond came along.

17 MR. KALIKOW: I understand that, your Honor, and  
18 that's why we have been diligent in trying to follow up on the  
19 information that the defendant has provided us. We have been  
20 diligent in trying to get to the bottom of it.

21 In terms of what you were suggesting going forward, I  
22 do believe in terms of the specifications that there are open  
23 issues regarding whether the defendant has complied fully with  
24 his obligations to make restitution and has accurately and  
25 truthfully reported his income.

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1           That being said, the option that I would suggest for  
2           the future for the court and that we will consider -- continue  
3           to consider with defense counsel would be to modify the  
4           restitution schedule to avoid the ambiguous situation of the 20  
5           percent of income issue and set a regular schedule that can be  
6           verified. If he makes the payment, he is compliant; if he  
7           doesn't make the payment, he is not. And that would be a way  
8           to circumvent a lot of the running around and the trying to  
9           track down ambiguous at best, misleading or dishonest at worst  
10          statements and information that we have been provided.

11           THE COURT: Okay. I've got it.

12           Mr. Sapone.

13           MR. SAPONE: I always try to get along with everyone,  
14          your Honor.

15           THE COURT: Yeah, I mean, you do, but you haven't been  
16          able to work your magic in this particular arena especially.

17           MR. SAPONE: That's correct.

18           THE COURT: You have got a difficult assignment. So  
19          you have to figure out a way how to talk to your client in this  
20          context and explain to him what he has got to do and what he  
21          doesn't have to do, which I think, by the way, he knows  
22          already.

23           MR. SAPONE: So I think we had a hearing scheduled for  
24          2 p.m., and I could just represent very quickly, it's not about  
25          me, but I was in Albany, and my office had submitted a couple

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1 of letters, and I get a phone call that the letters are bogus  
2 and we have a hearing on Tuesday at 2:00, so from Albany I  
3 started making phone calls and doing things that lawyers do to  
4 disprove that.

5 THE COURT: I get it. I understand. But what I am  
6 saying is, if there were a better rapport between your client  
7 and the probation department and vice versa, it would never  
8 have come to that.

9 MR. SAPONE: Yes. Maybe the following comment is not  
10 going to be helpful, but I'm going to make it because it is in  
11 my --

12 THE COURT: If it's not going to be helpful and you  
13 are going to make it anyway, I'm not sure what value it is  
14 going to have.

15 MR. SAPONE: Well, it identifies --

16 THE COURT: We only want helpful comments here. We  
17 don't want unhelpful comments. Not so easy, huh?

18 MR. SAPONE: Yeah. I think --

19 THE COURT: Everybody has been so used to arguing with  
20 each other, that it's not so easy to come up with a helpful  
21 comment.

22 MR. SAPONE: I think that there is a climate where it  
23 is believed that Mr. Richmond is dishonest from one end and  
24 from the other that folks are out to get him. That is how I  
25 see it.

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1 THE COURT: Yes, pretty much.

2 MR. SAPONE: So what I continue to say is --

3 THE COURT: How do you fix that?

4 MR. SAPONE: Work, make restitution, listen, comply.

5 The good news I guess is, he has a job now. Mr. Anastasakis --  
6 it's in my letter.

7 THE COURT: He is here.

8 MR. SAPONE: He is here.

9 THE COURT: He is sitting right behind us.

10 MR. SAPONE: So maybe now with regular employment,  
11 regular income, regular restitution payment, there can be some  
12 progress.

13 THE COURT: Yup. I think that's right. I think this  
14 will help greatly. So that employment has already begun.

15 MR. ANASTASAKIS: Do I --

16 THE COURT: You can, sure.

17 MR. ANASTASAKIS: May I stand, your Honor?

18 THE COURT: Yes, sure.

19 MR. SAPONE: Would you identify yourself for the  
20 record, your first and last name.

21 MR. ANASTASAKIS: Constantinos Anastasakis.

22 THE COURT: You can come inside.

23 MR. ANASTASAKIS: Doesn't look the same way on  
24 television.

25 THE COURT: No. In fact, there you go.

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1 MR. ANASTASAKIS: I'm in real estate development. We  
2 are a family business, give or take, well, give or take. You  
3 follow what I am saying.

4 THE COURT: Yes.

5 MR. ANASTASAKIS: To make a long story short, I have  
6 got a small real estate development company, at which point I  
7 have, over the last year or so -- I just took a blood pressure  
8 pill with no water, so it is stuck somewhere here.

9 THE COURT: We have got some water.

10 MR. ANASTASAKIS: But I spent about five hours with  
11 the U.S. attorneys yesterday, just coming off a 22-hour flight.

12 So to make a long story short, we have known each  
13 other for about three years. We have really been intensified  
14 the last six months to a year at full blown. I unfortunately,  
15 as most immigrant family businesses are, as I mentioned to the  
16 U.S. Attorney yesterday, we run it very lackadaisically. We  
17 are not organized. I keep a filing cabinet in my apartment.  
18 It is just rent, L & T stuff, that sort of nonsense.

19 So Mr. Richmond, in all fairness, has actually  
20 motivated me to not run it lackadaisical. Guess what? Let's  
21 get an office. Let's rebrand. Let's put our Web site  
22 together. Let's move. Because he has, at least in my opinion,  
23 a great deal to offer to compliment where my shortcomings are.

24 So I am more than happy to -- we have been scouting  
25 offices for the last two weeks or so. I, unfortunately, I

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1 traveled because I had business out of state in North Carolina,  
2 so I am there and my fiancée is there, so I am there usually  
3 Friday through Monday pretty much every week. If I don't show  
4 up, she will shoot me. You can quote me on that one.

5 But to make a long story short, it is a great  
6 opportunity, at least I think a mutually beneficial  
7 relationship, for lack of a better word. And that being said,  
8 I am more than happy to offer him, as I have offered him,  
9 employment.

10 Right now, being that my expenditures are going to be  
11 upwards of whatever they are with new office spaces, telephone  
12 lines, receptionist, this, that, filing cabinets, stuff that I  
13 really haven't done before, because everything is  
14 lackadaisical, it is a zoo. We are very sloppy with our family  
15 business, as most families are.

16 So we have already looked at two office spaces, I am  
17 looking at one more on Wednesday, and I am prepared to offer  
18 him employment because he provides a certain degree of synergy  
19 and he complements me. And lastly, look, I'm going to sign up  
20 for a one-year lease. If he performs, great. He doesn't,  
21 what's my exposure? \$50,000? Big deal. Problem solved.

22 So he has brought a tremendous amount of experience,  
23 he is well spoken, he is educated, I don't have to worry about  
24 that. I will give him -- on the weekends that I am away, I  
25 will give him a corporate -- I mentioned this, I can cap the



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1 corporate card. I know he is not going to run to Cartier and  
2 go buy a watch. So I will cap the corporate card at a thousand  
3 bucks for just the odd martini at the Peninsula, what have you.  
4 And that being said, that's pretty much it.

5 THE COURT: All right. So the question is, is he on  
6 the payroll yet?

7 MR. ANASTASAKIS: He has not. No. We have not  
8 identified an office space. I am going to do that this week.  
9 And of course I was traveling. I was on a 24-hour flight the  
10 day before. I met with the U.S. attorneys yesterday. They  
11 kept me all afternoon, at 2:00 for me, your Honor. Forgive me.  
12 I am still a little jet-lagged. My ears are still clogged.

13 THE COURT: We have been trying to --

14 MR. ANASTASAKIS: I will have office identified, I  
15 would say, most likely by the end of this week if not by the  
16 beginning of next. And once I identify office, then he is on  
17 the payroll. As of yet he has not received any money from me,  
18 none whatsoever.

19 THE COURT: So that's our concern because everybody  
20 here has been motivated to help him get employment, but it  
21 hasn't happened.

22 MR. ANASTASAKIS: He is guaranteed employment from me  
23 at this point. I have looked at two spaces so far. I have one  
24 more meeting on Wednesday. It is just a question -- because  
25 I'm a little bit of a -- forgive me, for the colloquialism -- a

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1 stickler. I don't want something sloppy. If I'm going to do  
2 this, and we are going to do this, I want it pretty. I want  
3 glass. It's effect. I'm all about that. Because that's how  
4 you entertain clients in the business that I am in. So with  
5 that being said, I want the right space. I looked at one. I  
6 didn't like it. I looked at the second one, I like it. I have  
7 two more to see on Wednesday. I should have it wrapped up by  
8 the end of the week.

9 THE COURT: In midtown?

10 MR. ANASTASAKIS: Yeah, midtown. The Wednesday one is  
11 in Bryant Park I think, right?

12 THE DEFENDANT: Yes.

13 MR. ANASTASAKIS: Bryant Park.

14 We own a family -- one of -- our family owns a  
15 building on 36 West 44th Street, the Bar Building. That's my  
16 Uncle John's. I looked in there. Uncle John is 85 years old.  
17 His offices are -- he walks around with Jesus hands. Forgive  
18 me for that, but we are a typical Greek family. So he walks  
19 around, and it is very dirty in there. I didn't like it. So I  
20 passed on that.

21 I looked at a work space called Jay Suites. That was  
22 nice.

23 And then we have the one in Bryant Park and the other  
24 one on Long Island City, which I can't remember the bloody name  
25 of it. Because I live in Astoria, and I would much -- and I

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1 don't drive --

2 THE COURT: I get it.

3 MR. ANASTASAKIS: -- and I don't do the train thing  
4 either, so it's Uber, and LIC for me would be perfect.

5 But unfortunately most of my meetings are conducted --  
6 like I said, it is lackadaisical. I have been doing it for 20  
7 years like this. When I need to see a client, I go to the  
8 Peninsula, I go to the Stanhope, I go to the Sherry-Netherland,  
9 we have a drink at the bar, business concluded, and then we  
10 show up at the attorney's office for the closings that's all it  
11 is.

12 THE COURT: All right. Well, that's very helpful.

13 MR. ANASTASAKIS: Okay.

14 THE COURT: No, I have got it.

15 MR. ANASTASAKIS: Am I okay?

16 THE COURT: Yes.

17 MR. ANASTASAKIS: Thank you, sir.

18 THE COURT: Anything else from anybody? So we are  
19 going to go off the record, and the second table and the first  
20 table can get together and see what modifications you can or  
21 should, if any, make to restitution. That's your contribution  
22 for today, is that right?

23 MR. KALIKOW: Yes, your Honor, restitution and  
24 reporting requirements that we can verify what the money -- the  
25 employment and the income that he has coming in.

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1 THE COURT: Well, you know how to do that, no?

2 MS. GONZALEZ: Yes, your Honor. I certainly know how  
3 to visit him at his employment. The issue has been -- all  
4 along has been documenting his income. He hasn't documented  
5 his income at all. That has been one of the major issues.

6 THE COURT: Well what you are hearing now, I guess, is  
7 that he has not got income, this income hasn't started.

8 MS. GONZALEZ: No. But he has had other income over  
9 the course of this 14 months that was not ever documented for  
10 us and we weren't able to verify the employment. We went to  
11 the site several times and weren't able to verify the  
12 employment.

13 THE COURT: Mr. Sapone, do you know anything about  
14 that?

15 MR. SAPONE: No. I told him to work and when he has  
16 made money, I have told him to pay restitution.

17 THE COURT: Why don't we go off the record. You all  
18 can meet, if you want to go in the jury room briefly, and see  
19 if we can come up with some workable solution to the  
20 restitution schedule.

21 MR. SAPONE: Great.

22 MR. KALIKOW: Thank you, your Honor.

23 THE COURT: Then come back when you have finished.

24 MR. SAPONE: Thank you.

25 MR. ENZER: Thank you.

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1 (Recess)

2 THE COURT: So what did you come up with?

3 MR. KALIKOW: Your Honor, we conferred with defense  
4 counsel and with the defendant. We have agreed to  
5 modifications of supervised release to be a fixed monthly  
6 payment of restitution in the amount of \$700 to begin in the  
7 month of August; and, in addition to that, Mr. Vaughn will be  
8 required to provide monthly reporting to -- monthly  
9 documentation to the probation department of his employment and  
10 the money that he is earning.

11 THE COURT: Okay. That works.

12 And defense understands their obligation?

13 MR. SAPONE: Yes, your Honor.

14 THE COURT: Okay. Anybody got anything else?

15 MR. KALIKOW: No, your Honor. We would just ask to  
16 put a control date for a future conference.

17 THE COURT: Yes, I'm going to do that.

18 MR. KALIKOW: Thank you.

19 MR. SAPONE: Before we do that, may I be heard on  
20 another issue, your Honor?

21 THE COURT: Sure.

22 MR. SAPONE: Your Honor, I haven't been paid in my  
23 role as counsel, and I was wondering if we could take steps to  
24 see if I could be compensated by CJA. I am on the panel in the  
25 Southern District.

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1 THE COURT: I think that's a little tricky. You could  
2 send me a letter about that.

3 MR. SAPONE: Yes.

4 THE COURT: Let me look at it in writing, and then I  
5 will see if there is anything I can do. I can't say one way or  
6 another right now.

7 MR. SAPONE: I understand. Thank you.

8 THE COURT: Great. September 26 at 9 a.m. Does that  
9 work for everybody?

10 MR. KALIKOW: Yes, your Honor. Actually, if I can  
11 have one moment for probation, your Honor.

12 MR. SAPONE: It works for us, your Honor.

13 (Pause)

14 MR. KALIKOW: Your Honor, I have just been informed  
15 that Southern District Probation Office has a retreat that  
16 week, so there will be nobody to be present that week. If we  
17 could do it the week before or after, please.

18 THE COURT: October 1, how is that?

19 MR. KALIKOW: That's fine, your Honor.

20 MS. GONZALEZ: At 9 a.m.?

21 THE COURT: 10:00 on October 1. Is that okay with  
22 you, Mr. Sapone?

23 MR. SAPONE: Yes, your Honor.

24 THE COURT: October 1, 10:00.

25 Good. Good to see you all.

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1 MR. KALIKOW: Thank you, your Honor.

2 MR. SAPONE: Thank you.

3 MR. KALIKOW: Your Honor, just to be 100 percent sure,  
4 has your Honor so ordered the modifications that the parties  
5 have consented to?

6 THE COURT: Sure. Do you want to submit something  
7 written, have me so order it in writing? That will be great.

8 MR. KALIKOW: Yes, your Honor, we will do that.

9 MR. SAPONE: Okay. Thank you.

10 MR. KALIKOW: Thank you, your Honor.

11 THE COURT: Yup.

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